

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
vs.)	Case No. 07-00087-CR-W-NKL
)	
ISLAMIC AMERICAN RELIEF)	
AGENCY, et al.,)	
)	
Defendants.)	

O R D E R

Pending before the Court is a Joint Motion to Strike Surplusage filed by Defendants Mubarak Hamed, Ali Mohamed Bagegni, Ahmad Mustafa, Abdel Azim Elsiddig, and Mark Siljander [Doc. # 207]. In their motion, Defendants request that the Court strike as surplusage certain portions of the Second Superseding Indictment (“Indictment”) that they believe are unnecessary to the purposes of an Indictment and contain highly prejudicial material. In opposition to Defendants’ motion [Doc. # 234], the Government argues that the items identified in Defendants’ motion are relevant and, in some instances, constitute elements of the offense charged.

A motion to strike surplusage from an indictment is within the Court’s discretion. The Eighth Circuit has cautioned that such motions “should be granted only where it is clear from the allegations contained therein are not relevant to the charge made or contain inflammatory and prejudicial matter.” *United States v. DeRosier*, 501 F.3d 888, 897 (8th Cir. 2007)

(quoting *Dranow v. United States*, 307 F.2d 545, 558 (8th Cir. 1962)). Because the Court controls the language read to the jury, including the language of an indictment, the Court can address Defendants' concerns by the manner in which the Court reads the Indictment to the jury. *Manual of Model Criminal Jury Instructions for the District Courts of the Eighth Circuit, Instruction 1.01, Notes on Use 2* ("Depending on the length and complexity of the indictment and the individual practices of each district judge, the indictment may be read, summarized by the court, summarized by the prosecutor or not read or summarized, depending on what is necessary to assist the jury in understanding the issues before it.").

Accordingly, it is hereby

ORDERED that Defendants' Joint Motion to Strike Surplusage [Doc. # 207] is DENIED without prejudice.

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Judge

Dated: September 21, 2009
Jefferson City, Missouri